Supreme Court, U.S.
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Case No.

IN THE

Supreme Court of the United States

October Term, 2005

Ronald Howard Brodt, Petitioner

v.

State of Maryland, Respondent

Petition for Writ of Certiorari to the Maryland Court of Appeals

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PETITION FOR WRIT OF CERTIORARI

Ronald Howard Brodt Sr
In -Care -Of
209 Walnut Lane
Aberdeen, Maryland
United States of America
Phone: (410) 879-5546

QUESTIONS PRESENTED FOR REVIEW

1. Can the Circuit Court of Harford County refuse to hear a case de novo thereby violating my procedural and substantive rights to due process of law guaranteed by the United States Constitution, under the due process clauses of the Fifth and Fourteenth Amendments to the United States Constitution and the right to petition for redress of grievances which is provided for under the First Amendment, by way of the Fourteenth Amendment to the United States Constitution and similar provisions of the Maryland Constitution, effectively denying access to the appellate process in Maryland ?

2. Were my procedural and substantive due process rights, provided for in the constitutional provisions described above, violated by the Harford County Circuit Court as guaranteed under the state statutes and the federal constitutional due process clauses described above?

3. Does appellate jurisdiction attach in the Harford County Circuit Court once the petitioner has filed his notice of appeal?

4. Does the Harford County Circuit Court have a duty under the state law provisions and federal constitutional provisions cited in this petition to conduct a trial de novo when an appeal from a court of limited jurisdiction is filed?

TABLE OF CONTENTS

QUESTIONS PRESENTED FOR REVIEW i

TABLE OF CONTENTS ii

TABLE OF AUTHORITIES iii

INTRODUCTION 1

OPINIONS BELOW 1

JURISDICTION 1

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED 2

STATEMENT OF THE CASE 4

ARGUMENT 6

CONCLUSION 9

TABLE OF AUTHORITIES

State Cases

1. Eastern Publishing v. Jender Printing, 312 Md 715
542 A 2d 380 (1987) 8

2. Hardy v. State, 279 Md 489; 369 A. 2d 1043
. 8

3. Harper v. State, 312 Md. 396; 540 A 2d 124
(1988) 10

4. McDonald v. State, 314 Md. 271;
550 A 2d 696 (1988) 8

5. Nina & Nareg, Inc. v. Movahed, 369 Md 187
798 A 2d 557 (2002) 8

6. Thompson v. State, 278 Md. 41, 53-54
359 A 2d 203 (1976) 8

7. Montgomery Ward v. Hermann, 190 Md. 405 at 409
58 A 2d 677 (1948) 8

Zitzer v. Jones, 48 Md. 115, at 117 (1878) 8

State Statutes

12-401(a) 3, 8

12-401(c) 3, 8

12-403 . . . . . 2, 8

Federal Cases

Brady v US, 397 US 742 at 748. 6

Griffin v. Illinois, 351 US 12 7

Lynch v. Household Finance Corp.; 405 US 538 (1972) 7

United States v. Lee; 106 US 196, 1S. Ct. 240 (1882) 6

Federal Constitutional Provisions

Fifth Amendment, United States Const. 2, 6

First Amendment, United States Const. 2, 8

Fourteeenth Amendment, United States Const. 2, 6

INTRODUCTION

I, Ronald Howard Brodt, the petitioner, respectfully requests that a Writ of Certiorari issue to review the judgment of the Maryland Court of Appeals entered on July 18, 2005.

OPINIONS BELOW

The ruling of the Circuit Court of Harford County remanding this matter to the District Court For a retrial was entered on September 7, 2004 without a formal written opinion. The final ruling by the Maryland Court of Appeals denying my Petition for Writ of Certiorari was issued on July 18, 2005, stating only that they do not believe that the it is in the public interest to review this matter.

BASIS FOR JURISDICTION

The Supreme Court of the United States of America has jurisdiction to hear this matter pursuant to Title 28 USC, Judiciary and Judicial Procedure, Section 2101(d) which provides for review of a state court judgment in a criminal case. The ruling of the Maryland Court of Appeals from which I seek review by this court was dated July 18, 2005.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

This case involves Article One, Clause 6 of the Bill of Rights, otherwise known as the First Amendment to the United States Constitution, which provides a constitutionally guaranteed unalienable right to "petition for petition the government for redress of grievances". This case also involves Article Five, Clause 5 of the Bill of Rights, otherwise referred to as the due process clause of the Fifth Amendment to the United States Constitution, which states as follows; "No person shall.....nor be deprived of life, liberty or property, without due process of law". This case also involves The Fourteenth Amendment to the United States Constitution, Clause 3, otherwise referred to as the Due process clause of the Fourteenth Amendment, which states as follows; "nor shall any state deprive any person of life, liberty or property without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws."

The following Maryland State Statutes are involved;

12-403 Court to which appeal taken

(a) Counties.- An appeal from the District Court sitting in one of the counties shall be taken to the circuit court for the county in which judgment was entered.

(b) Baltimore City.-An appeal from the District Court sitting in Baltimore City shall be taken to the Circuit Court for Baltimore City.

12-401 Right of appeal generally.
(a) Civil Cases.- Any party in a civil case may appeal from a final judgment entered in the District Court.
(b) Criminal cases.- In a criminal case:
(1)The State may appeal from a final judgment entered in the District Court:
(i) If the State alleges that the trial judge failed to impose the sentence specifically mandated by the Code: or
(ii) Granting a motion to dismiss, or quashing or dismissing a charging document.
(2) The defendant may appeal even from a final judgment entered in the District Court though imposition or execution of sentence has been suspended.
(c) Criminal appeal.- Notwithstanding any other provision of law, an appeal taken under subsection (b)(1)(ii) of this section shall be:
(1) To the circuit court solely for the purpose of reviewing the judgment of the District Court; and
(2) Heard on the record made in the District Court.
(d) Municipal infraction.-
(1) A defendant who has been found guilty of a municipal infraction, as defined in Article 23A, Section 3(b)(1) of the Code or a Code violation under Section 10-119 of the Criminal Law Article, may appeal from the final judgment entered in the District Court.
(2) The costs and procedures for taking the appeal shall be as provided for appeals from criminal cases in the District Court.
(3) Except, however, as provided in subsection (f) of this section, the appellate court shall docket and hear the appeal as a civil appeal from the District Court.
(e) Time for appeal.-
(1) Except as provided in paragraph (2) of this subsection, an appeal shall be taken by filing an order for appeal with the clerk of the District Court within 30 days from the date of the final judgment from which appealed.

(2) If the final judgment was entered in a case filed under Section 8-332, Section 8-401, Section 8-402, Section 14-109, or Section 14-120 of the Real Property Article, the order for appeal shall be filed within the time prescribed by the particular section.

(f) De novo and on record appeals.- In a civil case in which the amount in controversy exceeds $5,000 exclusive of interest, costs, and attorney's fees if attorney's fees are recoverable by law or contract, in any matter arising under Section 4-401(7)(ii) of this article, and in any case in which the parties so agree, an appeal shall be heard on the record made in the District Court. In every other case, including a criminal case in which sentence has been imposed or suspended following a plea of nolo contendere or guilty, and an appeal in a municipal infraction or Code violation case, an appeal shall be tried de novo.

(g) Right to jury trial.- In a criminal appeal that is tried de novo, there is no right to a jury trial unless the offense charged is subject to a penalty of imprisonment or unless there is a constitutional right to a jury trial for that offense.

BRIEF STATEMENT OF THE CASE

An unfounded citizen complaint was filed against me with the Department of Animal Control in Harford County alleging that I kept puppies in a windowless building with no air conditioning. The Animal Control Department then applied for and obtained a search warrant without probable cause and without identifying the nature (jurisdiction and venue), and cause of the accusation in the warrant. An employee of the Harford County Department of Animal Control searched my private allodial property and found nothing wrong. They discovered that the building was air conditioned and that there

were windows in the building. In an attempt to save face, The Department of Animal Control then filed a complaint with the States Attorney in Harford County alleging that I had too many puppies in a cage. The Department of Animal control lied and stated that I had 9 puppies in a cage. I had witnesses who would have testified that I had only 6 puppies in said cage, if I had been given more time to obtain these witnesses in my defense. The statute that the Animal Control Department relied upon did not specifically state how much space was required for each animal under my control, and was therefore void for
vagueness. The Animal Control Department also alleged that I had not obtained dog licensing for several dogs which I do not own. A criminal complaint in the nature of an information was filed by the States Attorney. A trial date was set. I notified the court that I needed more time to obtain witnesses for my defense. I asked for a postponement to obtain witnesses. The court refused to grant me a postponement and found me guilty of the two counts. The case number in Harford County District Court is 005R00039723. The District Court held a trial on Wednesday June 9th, 2004 at 2:30 PM and ruled in favor of the People of the State of Maryland (corporate). I filed a request for a retrial, and that request was denied. I then filed an appeal to the Circuit Court of Harford County. The Judge commenced an arraignment hearing. I asked the court who was holding the bond in the matter before the court. I asked a few other questions about jurisdiction and venue. The Judge told me he was remanding the case to the District Court of Harford County. The Circuit court held a hearing on September 7, 2004 in case number 12K 04001028 and remanding the case to the District Court for a retrial. The District Court for Harford County had already refused my request for a retrial. I appealed the Circuit Court Judges ruling to the Maryland Court of Special Appeals for review of that judges ruling. The Maryland Court of Special Appeals

forwarded the case to the Maryland Court of Appeals, because the Maryland Court of Appeals had jurisdiction on appeal from the Circuit Court of Harford County, and since I had erroneously filed the appeal with the Maryland Court of Special Appeals. The Maryland Court of Appeals accepted and relied upon the pleadings I filed in the Maryland Court of Special Appeals for their ruling.

ARGUMENT

1. **The Circuit Court cannot refuse to hear a case de novo without violating my procedural and substantive rights to due process of law guaranteed by the US Constitution.**

The Circuit court of Harford County refused to set the above captioned case for trial remanding the case back to the District Court for a second trial, thereby violating my rights to due process of law under the Fifth and Fourteenth Amendments to the US Constitution and denying my access to the appellate process. The District Court had already refused to grant a second trial. The right of appellate review cannot be set aside by the Circuit Court. Additionally, this right was not waived. For the waiver of a right to be valid it must be done knowingly, intelligently and voluntarily with sufficient awareness of the likely consequences and relevant circumstances, see Brady v US, 397 US 742 at 748. The right to due process of law is guaranteed by the Fifth and Fourteenth Amendments, see United States v. Lee; 106 US 196, 1S. Ct. 240 (1882) where the United States claimed ownership of property via a tax sale some years earlier, the court stated as follows:

> "No man in this country is so high that he is above the law. No officer of the law may set that law at defiance with impunity. All the officers of the government, from the highest to the lowest are creatures of the law and are bound to obey it. It is the only supreme power of our system of government, and every man who by accepting office participates in its functions is only the more strongly bound to submit to that supremacy, and to observe the limitations which it imposes upon the exercise of the authority which it gives..... Shall it be said ... that the courts cannot give remedy when the citizen has been deprived of his liberty by force, his estate seized and converted to the use of the government without any lawful authority, without any process of law, and without any compensation, because the president has ordered it and his officers are in possession? If such be the law of this country, it sanctions a tyranny which has no existence in the monarchies of Europe, nor in any other government which has a just claim to well-regulated liberty and the protection of personal rights."

The Supreme Court also reaffirmed the right to enjoy private property, which it characterized in a broad class of civil liberties, and not be deprived of it without due process of law in Lynch v. Household Finance Corp.; 405 US 538 (1972).

In Griffin v. Illinois, 351 US 12, the US Supreme Court ruled that a state could not create procedural roadblocks that effectively denies a criminal defendant access to the appellate process. I believe that the Harford County courts must be restrained for the same reason.

The refusal by the Circuit Court of Harford County to hear the case de novo is also a violation of the right to petition for